

FEBRUARY 21, 2006

## **RULE ADOPTION**

### **COMMUNITY AFFAIRS**

### **DIVISION OF CODES AND STANDARDS**

### **DIVISION OF FIRE SAFETY**

Adopted Amendments: N.J.A.C. 5:10-28.1, 5:27-14.1 and 5:70-4.9

Hotels and Multiple Dwellings; Rooming and Boarding Houses; Uniform Fire Code

Carbon Monoxide Detectors; Smoke Detectors

Proposed: October 17, 2005 at 37 N.J.R. 3877(a).

Adopted: December 27, 2005 by Charles A. Richman, Acting Commissioner, Department of Community Affairs.

Filed: January 24, 2006 as R.2006 d.74, **with technical changes** not requiring additional public notice or comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 52:27D-198, 55:13A-7.17 and 55:13B-4.

Effective Date: February 21, 2006.

Expiration Dates: January 9, 2009, N.J.A.C. 5:10;  
October 24, 2010, N.J.A.C. 5:27;  
June 14, 2010, N.J.A.C. 5:70.

### **Summary of Public Comments and Agency Responses:**

Comments were received from Steve Kaplan, Construction Official of the Township of Hanover, and Sue Gottesman, Legislative Coordinator of the New Jersey Council on Developmental Disabilities.

COMMENT: The supplying upon request of a visual carbon monoxide detector or smoke detector will enhance the lives of deaf or hearing impaired individuals. However, landlords must also be required to install the detectors so that they will be installed properly.

RESPONSE: The amendments are in the context of an installation requirement. However, in order to avoid any confusion, the words "and install" are being added on adoption to each of the amendments.

COMMENT: The New Jersey Council on Developmental Disabilities (Council) commends the Department for proposing rules to foster enhanced safety for people with disabilities.

RESPONSE: The Council's support is appreciated.

COMMENT: The rule should be amended to require owners to notify residents of their right to a visual alarm and to provide a simple and appropriate way for residents to submit requests, such as a self-addressed request form or a TTY phone number.

RESPONSE: Such an amendment could not be made on adoption because it would place an obligation on owners that was neither proposed nor already in the rules. In any event, tenants will be told of their right to request visual alarms if needed when they receive their copies of the next edition of

the Department's Truth-in-Renting statement, which multiple dwelling owners are already required to distribute to tenants and which will contain this information. Tenants would presumably communicate any such request to the owner in the same way that they would communicate any other request.

COMMENT: The Department should consider requiring all units to contain visual alarms in order to promote universal design of structures that all people would be able to use.

RESPONSE: Such a requirement is not found in applicable Federal or State statutes or in the adopted subcodes of the State Uniform Construction Code. It, therefore, cannot be imposed by rule. In any event, it would be beyond the scope of this proposal.

COMMENT: Owners who know that a tenant is deaf or hearing impaired should be required to install visual detectors without waiting to be asked. Owners who do not know, but have reason to believe, that a tenant is deaf or hearing impaired should offer such installation to such tenant.

RESPONSE: Under applicable Federal and State civil rights law, it is a discriminatory practice for an owner to refuse an accommodation to a person with a disability if requested by that person to do so. Indeed, the Americans With Disabilities Act, while not applicable in this situation, expressly prohibits the offering of accommodations to persons who have not requested them. If there is to be a shift to a public policy of requiring owners to identify tenants who may require an accommodation, it should be done through Federal or State legislation, not in the context of the Department's administrative rule amendments. In any event, the requested amendment would be beyond the scope of the proposal and could therefore not be added on adoption. As has been indicated, an owner will be required to provide notice of the availability of visual alarms to all tenants by distributing copies of the new edition of the Truth-in-Renting statement.

### **Federal Standards Statement**

No Federal standards analysis is required because these amendments are not being adopted under the authority of, or in order to implement, comply with or participate in any program established under, Federal law or a State statute that incorporates or refers to Federal law, standards or requirements.

**Full text** of the adoption follows (additions to proposal indicated in boldface **thus**):

### **HOTELS AND MULTIPLE DWELLINGS**

#### **5:10-28.1 Carbon monoxide alarms**

(a)-(b) (No change.)

(c) the request of a tenant of a multiple dwelling unit in which a person who is deaf or hearing-impaired resides, the owner shall provide **and install** a visual alarm type carbon monoxide detector for that unit.

### **ROOMING AND BOARDING HOUSES**

#### **5:27-14.1 Carbon monoxide alarms**

(a)-(b) (No change.)

(c) At the request of a resident who is deaf or hearing-impaired, the owner shall provide **and install**

a visual alarm type carbon monoxide detector for that resident's sleeping area.

#### **UNIFORM FIRE CODE**

##### **5:70-4.9 Automatic fire alarms**

(a) An automatic fire alarm system shall be installed as required below in accordance with the New Jersey Uniform Construction Code.

1-2. (No change.)

3. In all buildings of Use Group R-2 as follows:

i.-vi. (No change.)

vii. At the request of a tenant of a unit in which a person who is deaf or hearing-impaired resides, the owner shall provide **and install** a visual alarm type smoke detector for that unit or, in the case of a rooming or boarding house resident, for that resident's sleeping area.

4.-8. (No change.)

(b)-(c) (No change.)